CCRB INVESTIGATIVE RECOMMENDATION

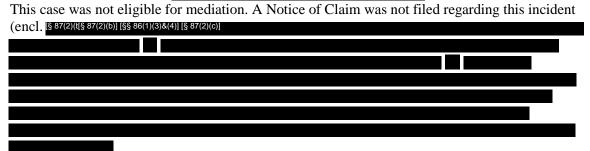
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Investigator:		Team:	CCRB Case #:	☑ Fo	orce	$ \sqrt{} $	Discourt.	☐ U.S.
Glenn Brown		Squad #11	201409865	☑ Al	ouse	$\overline{\checkmark}$	O.L.	☑ Injury
Incident Date(s)		Location of Incident:		Prec	einct:	18	Mo. SOL	EO SOL
Wednesday, 09/17/2014 11:44 PM	M	7th Avenue and West 1 the 28th Precinct statio		2	28	3/	17/2016	3/17/2016
Date/Time CV Reported		CV Reported At:	How CV Reported:	: Da	ite/Time	Rece	ived at CCl	RB
Thu, 09/18/2014 2:30 AM		IAB	Phone	Th	u, 09/25/	/2014	1:39 PM	
Complainant/Victim	Type	Home Addre	ess					
Witness(es)		Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. DTS Jesus Capo	01906	926640	028 PCT					
2. SGT Joel Edwards	03692	936544	028 PCT					
3. Officers			028 PCT					
4. An officer								
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. POM Michael Duffy	27097	948329	028 PCT					
2. LT Princess Princemccoade	00000	926436	028 PCT					
3. POM Bradley Field	30276	932640	028 PCT					
4. POM Bradley Kucyk	14955	947144	028 PCT					
5. POM Ramon Polanco	07055	947940	028 PCT					
6. POM James Hughes	08693	906485	028 PCT					
7. POM Claudio Luperon	12509	936996	028 PCT					
8. POM Otilio Penacabreja	09184	944241	028 PCT					
Officer(s)	Allegatio	on			Inves	stiga	tor Recor	nmendation
A.DTS Jesus Capo		t West 122nd Street and s Capo used physical fo		hattan,				
B.SGT Joel Edwards		guage: At West 122nd S in, Sgt. Joel Edwards ma on race.						
C.SGT Joel Edwards		esy: At West 122nd Stre in, Sgt. Joel Edwards sp						
D.SGT Joel Edwards		t West 122nd Street and Edwards used physical						

Officer(s)	Allegation	Investigator Recommendation
E. Officers	Force: At West 122nd Street and 7th Avenue in Manhattan and the 28th Precinct station house, officers used physical force against \$87(2)(b) and \$87(2)(b)	
F.DTS Jesus Capo	Force: At West 122nd Street and 7th Avenue in Manhattan, Det. Jesus Capo used pepper spray against 887(2)(b)	
G. An officer	Discourtesy: At the 28th Precinct station house, an officer spoke discourteously to §87(2)(b)	
H. An officer	Abuse: At the 28th Precinct station house, an officer did not obtain medical treatment for 887(2)(b)	

Case Summary

On September 17, 2014, at approximately 11:44pm, §87(2)(b)	was standing outside
West 122 nd Street at 7 th Avenue with her friends § 87(2)(b)	and
when they saw officers from the 28th Precinct apprehe	nd § 87(2)(b)
who had been observed in a hand-to-hand transaction. Det. Jesus C	Capo allegedly
punched §87(2)(b) (Allegation A). Sgt. Joel Edwards allegedly used offer	ensive language and
spoke discourteously to \$87(2)(b) (Allegation B and Allegation C). Sgt. I	Edwards then allegedly
punched \$87(2)(b) in the face (Allegation D) and a fight broke out between	en civilians and
officers, in which force was allegedly used against \$87(2)(b) and \$87(2)(b)	as they were
apprehended, and the force allegedly continued while they were at the 28th	Precinct station house
(Allegation E). Det. Capo allegedly pepper-sprayed \$87(2)(b) when he was	as inside of a police
vehicle, attempting to kick out the windows (Allegation F). An officer alle	gedly used
discourteous language with §87(2)(b) at the station house (Allegation G)	and an officer
allegedly refused to provide him with medical treatment (Allegation H). The	here were two usable
videos related to this incident (a blurry video was provided that is almost a	duplicate of one of the
two videos referred to in this incident) (encl. 6a-c)	-

Mediation, Civil, and Criminal Histories



Civilian and Officer Histories

- This is the first complaint filed by \$87(2)(b) and involving \$87(2)(b) (encl. 1d-e).
- Det. Capo has been a member of the service for 14 years and has been a subject officer in ten cases. In case 200510189, he had an allegation of a refusal to provide his name/shield allegation substantiated against him. The CCRB recommended charges, and the NYPD issued instructions (encl. 1a-b).
- Sgt. Joel Edwards has been on the force for ten years. In addition to this case, he has been a subject in two truncated investigations (encl. 1c).

Findings and Recommendations

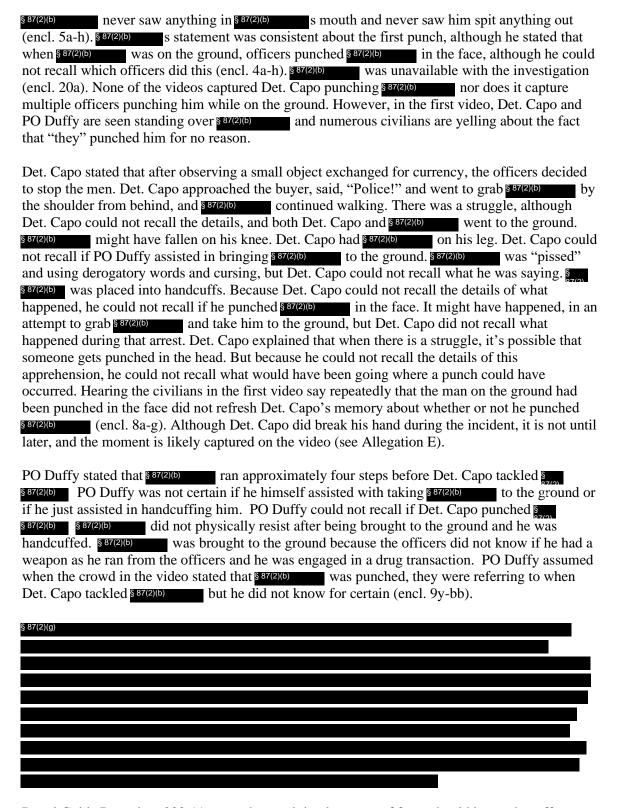
Explanation of Subject Officer Identification

stated that Sgt. Edwards approached him with 9 uniformed and plainclothes white, black, and Hispanic male officers he could not describe further, and that multiple officers took him to the ground. did not see PO Duffy or Det. Capo on the ground and could only assume their involvement. could not tell which officer was punching or kicking him, or how many. stated that when he refused to enter the RMP, an officer who stated that when he rear passenger door of the police vehicle and slammed it. stated that at the station house, he was punched and pulled to the floor near the desk by a "bunch of officers," none of whom he could describe. stated white male who

Page 2 CCRB Case # 201409865

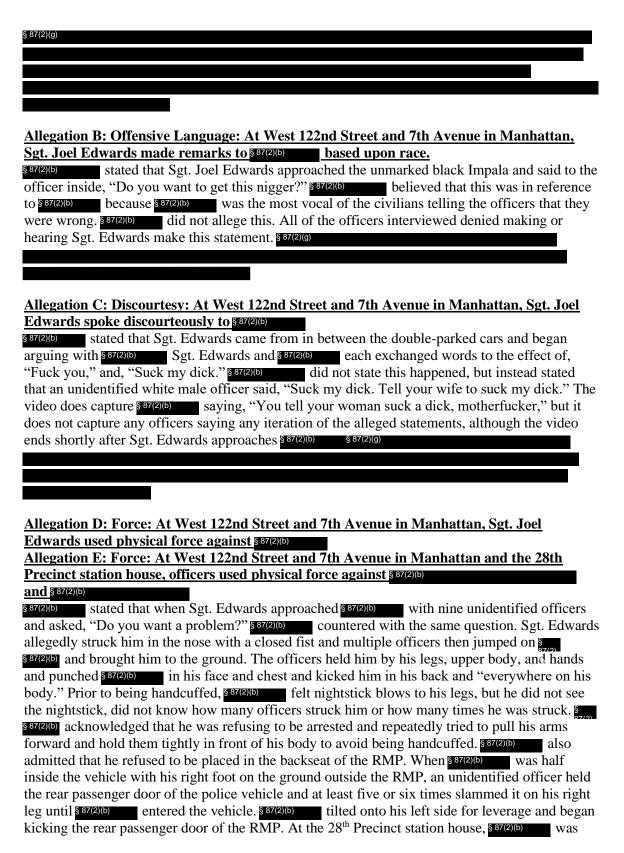
she believed was in the original vehicle with Det. Capo and PO Duffy, the white male she believed cursed at \$87(2)(5) and Sgt. Edwards. There was no additional officer in that vehicle, however.
stated that only one officer used force against her when she was being apprehended, and then a second officer was responsible after this, but the video shows she is surrounded by multiple officers when this force was allegedly being used. \$87(2)(b) stated that she was kicked when she was on the ground in between police vehicles. \$87(2)(b) could not tell which officer did this or how many because they were behind her at the time, but believed there were three or four officers responsible. \$87(2)(b) stated that when she was brought into the station house, multiple officers whose names she provided, including Lt. Prince-McCoade, PO Field, and PO Pena-Cabreja, used force against her. However, Lt. Prince-McCoade had not started at the desk yet, which is confirmed by the Command Log entry. Furthermore, PO Field and PO Pena-Cabreja did not arrive at the station house until hours after \$87(2)(b) was brought in, as they were responsible for handcuffing her when she was being EDP'd to the hospital. \$87(2)(g)
The police documentation for this incident shows that numerous officers responded to the scene over the radio, and the video confirms that more officers arrived, likely because the call for assistance had screaming in the background [887(2)(9)]
None of the officers admitted to participating in or
witnessing the force alleged.§ 87(2)(9)
• Discourtesy The video captures Sgt. Edwards saying to a police vehicle, "He's kicking out the window, get him the fuck out of here!" when strictles was kicking from inside the police car. Sgt. Edwards acknowledged he said this to officers. No civilians alleged that Sgt. Edwards made this statement.
• Force: \$87(2)(b) stated that he felt blows to his legs that he believed were from nightsticks, although he never saw them and \$87(2)(b) never saw officers use nightsticks. Det. Capo stated that after he broke his hand, he used an asp against who was uncooperative with the investigation, and there are no statements that one was used against him and the video does not show this.
Allegation A: Force: At West 122nd Street and 7th Avenue in Manhattan, Det. Jesus Capo
used physical force against stated that she was standing on the sidewalk with friends when she saw Det. Jesus Capo and PO Michael Duffy of the 28 th Precinct exit an unmarked, champagne-colored limpala and run towards stated that she was standing on the sidewalk with friends when she saw whose back was to them and who was walking at a

Page 3 CCRB Case # 201409865



Patrol Guide Procedure 203-11 states that a minimal amount of force should be used to effect an arrest (encl. 0a-b).

Page 4 CCRB Case # 201409865



could describe, at the front desk, who pulled him down to the floor. stated that approximately 10 to 12 officers, including the white male who allegedly cursed at \$37(2)(b) Sgt. Edwards, and a white male plainclothes officer she believed was in the same car as Det. Capo and PO Duffy, rushed towards [8] 87(2)(b) and began beating him. never saw any officers strike him with nightsticks. §87(2)(b) never saw any officers with nightsticks drawn. § 87(2)(b) stated that when § 87(2)(b) tried to intervene in her arrest, multiple officers punched him in the stomach. §87(2)(b) was uncooperative with the investigation (encl. 20a) and this force is not captured on the video. The second video merely captures a large group of officers struggling, presumably with someone underneath them, who is assumed to be §87(2)(b) At 26 seconds into the video, an officer in uniform, who otherwise could not be identified, is seen raising his elbow back \$87(2)(9) the video remains inconclusive about what is happening and none of the force allegations are captured. §87(2)(b) being placed into the vehicle is not captured until \$87(2)(b) is heard kicking at the windows, and an unidentified officer who is too blurry to see opens the door. Sgt. Edwards stated that because § 87(2)(b) was saying "Fuck you guys. You guys are pieces of shit. Suck my dick. If you fucking arrest me, I'll show you what will fucking happen to you guys. I'll fuck you guys up," was banging on the patrol vehicle, and refused to disperse after being told to leave more than two times, Sgt. Edwards decided to arrest \$87(2)(b) for disorderly conduct. [87(2)(b) told Sgt. Edwards, "I will fuck you up." Sgt. Edwards reached his hand toward \$87(2)(6) and \$87(2)(6) began to swing his fists at Sgt. Edwards. Det. Capo and PO Duffy were with Sgt. Edwards, but he did not know who the other officers were who were assisting. Sgt. Edwards ducked and [807(2)(b) punched at him again, striking Sgt. Edwards in the face. Other officers approached to assist in arresting § 87(2)(b) and he began punching toward these officers. §87(2)(b) and the other officers fell to the ground. He did not punch or see officers punch \$87(2)(b) Sgt. Edwards did not see any officer slam a door on \$87(2)(b) leg and he did not do so himself (encl. 16a-g). Det. Capo stated he was at the police vehicle when the brawl erupted. There was so much going on and so many groups struggling that Det. Capo could not see exactly what Sgt. Edwards was doing. Det. Capo came from the rear to try to assist. Det. Capo could not recall what he was doing to assist when he broke his right hand. He felt something snap in his right hand and it was clicking and didn't feel right. At that point, Det. Capo borrowed an asp from another officer, although he did not recall which officer, because his hand was broken. Det. Capo struck a male who was not \$87(2)(b) identified as \$87(2)(b) in the leg. After viewing the second video, at 39 seconds into the video, Det. Capo is seen looking at his right knuckle, which he confirmed was the moment that he had broken his hand (encl. 18i-w). The first time that PO Duffy had any physical contact with \$87(2)(b) was when \$87(2)(b) already on the ground. § 97(2)(b) was kicking his legs and pulling his arms away. PO Duffy identified himself in the video at :32 at the top left. He did not know where he was making contact with § 87(2)(b) but he speculated he was on his arm.

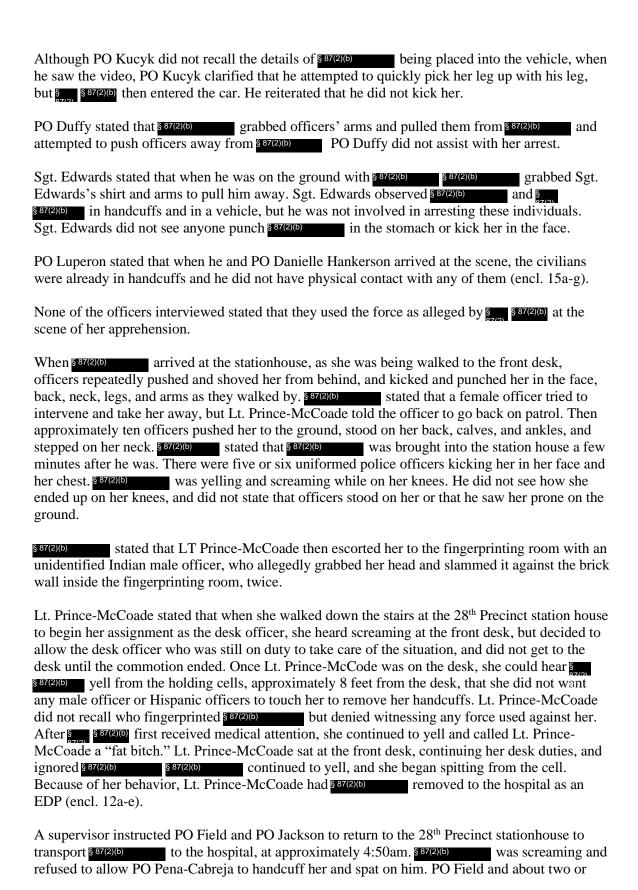
also punched repeatedly "everywhere on his body" by a "bunch of officers," none of whom he

Page 6 CCRB Case # 201409865

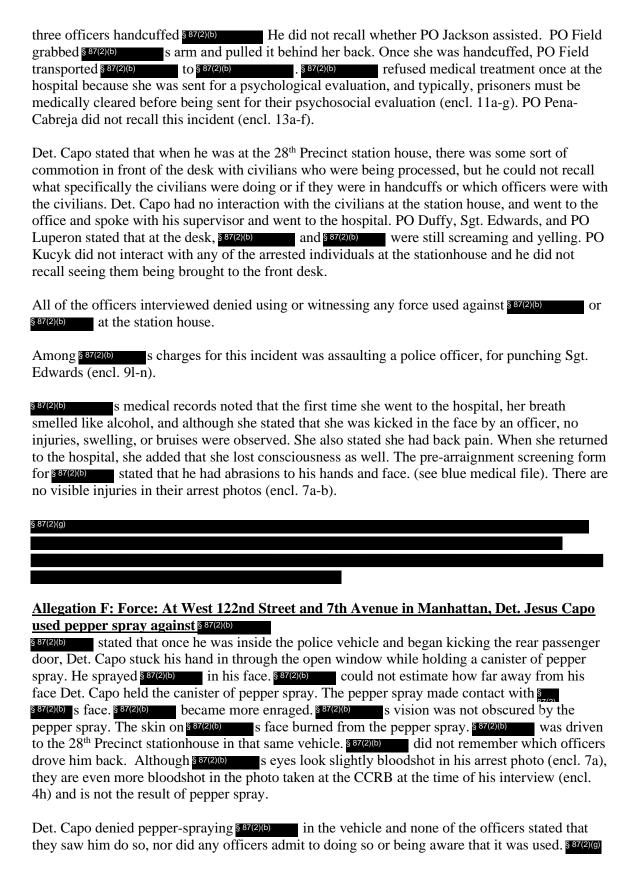
When PO Kucyk was at a vehicle, he looked back and saw Sgt. Edwards and §87(2)(b) been yelling and instigating the crowd and got very close to Sgt. Edwards, fighting with each other with punches and fists, although it was difficult for PO Kucyk to see who was punching whom. PO Kucyk approached Det. Capo, who was trying to apprehend \$87(2)(b) bigger than he was. PO Kucyk tried to place \$87(2)(b) s arms behind his back, but he yanked his arms all over the place and kicked his legs. Det. Capo hurt his hand during the altercation, but PO Kucyk did not know or see how. At some point, Det. Capo told PO Kucyk that he had punched someone, but PO Kucyk did not remember seeing this. The group of officers trying to handcuff § 37(2)(b) were not making any progress, so PO Kucyk recalled assisting by placing his shin on §87(2)(b) s leg to stop him from kicking (encl. 17a-h). PO Polanco assisted with the scuffle, but he did not recall what actions he took. He identified himself in the video as one of the officers involved with § 87(2)(b) and he thought it was possible that he was bringing one of \$87(2)(0) s arms behind his back, but he did not recall striking \$97(2)(b) PO Polanco and PO Hughes transported a calm male identified as PO Polanco did not spend any time in front of the desk with PO Polanco did not recall seeing any of the other three arrestees at the stationhouse § 87(2)(b) (encl. 10a-f). PO Hughes also could not recall whether he brought § 87(2)(b) ■ in front of the desk. He did not assist with the arrest processing or finger print any of the arrestees while at the stationhouse. PO Hughes stated that in the video he was always seen by the police car he was driving (encl. 14a-h). All of the officers interviewed denied using the force as alleged by § 87(2)(b) stated that a single officer threw her to the ground, kicked her in the face, dragged her on the ground, picked her up, threw her against the storefront, and then another officer assisted in putting her in handcuffs, at which point a different officer began dragging her on her knees to the street. §87(2)(b) denied going limp. §87(2)(b) admitted that she refused to enter the police car, and told the officers to lift her up so that she could sit in the vehicle on her own. Eventually she was lifted and thrown into the vehicle. § 87(2)(b) did not allege that she was kicked as she was being put into the vehicle. § 87(2)(b) stated that he saw multiple officers, § 87(2)(b) he could not tell how many, hitting § 87(2)(b) also saw multiple officers slam against the gate on the storefront. §87(2)(b) stated he saw them punch her in her stomach.

The second video shows [87/2](b) is consistently surrounded by multiple officers. She is seen pulling her arms away from an officer trying to place her in handcuffs and she pulls away and is then surrounded by a group. The next time she is seen, she is on the ground on her side, surrounded by a group of uniformed and plainclothes officers. She is next seen standing, slapping at officers, and continuing to pull herself away from multiple officers, who then push her against the storefront. She is then seen walked to the street in handcuffs. The next time she is seen is when [837(2)(b)] is trying to kick out the windows of the police vehicle, and she is on her knees and officers are trying to lift her to standing. Instead, she begins walking on her knees in between the parked police vehicles. She is then obscured, and when she is seen again, she is on her knees on the ground, and officers are unsuccessfully trying to pick her up, but she goes limp. Officers then try to place her into the police car, but she refuses to enter. When it appears she is almost in, PO Kucyk is seen moving his foot towards where she presumably is in a pushing movement (encl. 6a-c for transcription).

Page 7
CCRB Case # 201409865



Page 8 **CCRB Case # 201409865**



Page 9 CCRB Case # 201409865

§ 87(2)(g)					
Allegation G: Discourtesy: At the 28 discourteously to \$87(2)(b)	th Precinct station house,	an officer spoke			
As \$87(2)(6) was placed in the holding cell, he heard an officer – he did not know which – say, "Ain't shit wrong with him." All of the officers interviewed denied saying or hearing this statement made. \$87(2)(9)					
Allegation H: Abuse of Authority: A obtain medical treatment for \$87(2)(b) said that medical attention verceived any medical attention. \$87(2)(b) attention to him. \$87(2)(b) initially comedical attention, then later said that herefused medical attention. \$87(2)(b)	was offered to him by the ho could not describe the could not recall what his respondent definitely said he wanted in	olding cells but that he never officer who offered medical onse was to this offer of medical attention and never			
refused medical attention. [\$87(2)(b)] did not remember if this was before or after he heard an officer say, "Ain't shit wrong with him." When medical attention was offered to him at Manhattan Central Booking, [\$87(2)(b)] told them that he was fine because he did not want processing to be delayed. [\$87(2)(b)] did not seek medical treatment after the incident.					
The Medical Treatment of Prisoner for hands but refused medical attention (er		lacerations to his face and			
§ 87(2)(g)					
Team:					
Investigator:					
Signature	Print	Date			
Supervisor:					
Title/Signature	Print	Date			
Reviewer:					

Page 10 CCRB Case # 201409865

	Title/Signature	Print	Date
Reviewer:			
	Title/Signature	Print	Date